

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **ANGELO L. CHIRBAN, M.D.,**

4 Holder of License No. 27055
5 for the Practice of Allopathic Medicine
6 In the State of Arizona.

Board Case No. MD-11A-27055-MDX

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
(Revocation)**

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8 On December 14, 2011, this matter came before the Arizona Medical Board
9 ("Board") for consideration of the Administrative Law Judge (ALJ) Brian Brendan Tully's
10 proposed Findings of Fact, Conclusions of Law and Recommended Order. Angelo L.
11 Chirban, M.D., ("Respondent") did not appear before the Board and was not represented
12 by counsel; Assistant Attorney General Anne Froedge, represented the State.
13 Christopher Munns with the Solicitor General's Section of the Attorney General's Office,
provided independent legal advice to the Board.

14 The Board, having considered the ALJ's decision and the entire record in this
15 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

16 **FINDINGS OF FACT**

- 17 1. The Arizona Medical Board ("Board") is the duly constituted authority for licensing
18 and regulating the practice of allopathic medicine in the State of Arizona.
- 19 2. Angelo L. Chirban, M.D. ("Respondent") is the holder of License No. 27055 for the
practice of allopathic medicine in the State of Arizona.
- 20 3. On or about November 15, 2010, the Board received a complaint against
21 Respondent from D. J. L., the aunt of Respondent's patient, S.E. Patient S.E. had
22 been treated by Respondent for pain from approximately December 2006 through
23 March 2010. D. J. L. alleged that Patient S.E. died from overdoses caused by
24 Respondent's treatment. The Board opened an investigation based upon the
25 complaint. The Board designated the investigation as Case No. MD-10-1411A.

- 1 4. By letter dated November 16, 2010, the Board's assigned investigator, Elle J.
2 Steger, notified Respondent of the Board's investigation and requested that
3 Respondent provide a response to the complaint along with the medical records
4 for Patient S.E. on or before November 30, 2010. The letter was sent to
5 Respondent at his address of record with the Board, but it was later returned as
undeliverable.
- 6 5. By letter dated December 9, 2010, Ms. Steger sent another letter to Respondent
7 attaching her November 16, 2010 letter and notifying Respondent of a new
8 allegation against him regarding his failure to provide information to the Board in a
9 timely fashion. This letter was sent to Respondent's home address of record with
10 the Board. Respondent was required to respond to the letter on or before
11 December 23, 2010. The letter also requested that Respondent update his
12 address with the Board. No response from Respondent was received by the
Board.
- 13 6. The United States Drug Enforcement Agency ("DEA") had seized Respondent's
14 medical records in May 2010. Therefore, the Board's staff obtained Patient S.E.'s
15 medical records from the DEA rather than from Respondent. The medical records
16 for Patient S.E. were reviewed by the Board's medical consultant who determined
that the medical records were inadequate.
- 17 7. Case No. MD-10-1411A was assigned to Paul Yamaguchi, M.D., the Board's
18 medical consultant. Dr. Yamaguchi is an allopathic physician licensed to practice
19 in Arizona and California. He is board certified in Anesthesiology and has a pain
20 management practice at Kingman Regional Medical Center. Dr. Yamaguchi works
with patients with chronic pain and acute pain in a hospital setting.
- 21 8. After completing its investigation, the Board issued a Complaint and Notice of
22 Hearing, designated as No. 11A-27055-MDX, alleging acts of unprofessional
23 conduct by Respondent. The Complaint and Notice of Hearing advised the parties
24 of the time, date, and location of the evidentiary hearing before the Office of
25 Administrative Hearing, an independent agency. The Complaint and Notice of
Hearing was sent to Respondent at his address of record with the Board.

- 1 9. On October 14, 2011, a telephonic prehearing conference was conducted by the
2 Office of Administrative Hearings. The notice of the prehearing conference was
3 sent to Respondent at his address of record with the Board. Respondent failed to
4 appear telephonically at the prehearing conference.
- 5 10. The commencement of the scheduled hearing was delayed 15 minutes to allow for
6 the late arrival of Respondent or an attorney authorized to represent him. After the
7 delay, the Administrative Law Judge conducted the hearing in Respondent's
8 absence.
- 9 11. A physician is required to maintain adequate legible medical records containing, at
10 a minimum, sufficient information to identify the patient, support the diagnosis,
11 justify the treatment, accurately document the results, indicate advice and
12 cautionary warnings provided to the patient, and provide sufficient information for
13 another practitioner to assume continuity of the patient's care at any point in the
14 course of treatment. See A.R.S. § 32-1401(2).
- 15 12. At hearing, Dr. Yamaguchi testified that Patient S.E. entered into a pain
16 management contract with Respondent on December 15, 2006. He opined that
17 Patient S.E. did not comply with the terms of her pain management contract, but
18 Respondent continued to treat her.
- 19 13. Dr. Yamaguchi further testified that Respondent ignored red flags related to
20 substance abuse and diversion by Patient S.E.
- 21 14. Dr. Yamaguchi noted that on occasion, Respondent properly documented in
22 Patient S.E.'s medical records. However, the majority of those records contained
23 deficiencies, such as: unclear, illegible entries; incomplete records; and no
24 documentation of history.
- 25 15. The Board's Staff Investigational Review Committee ("SIRC") reviewed the
Board's investigation of Respondent and issued its written recommendation dated
May 26, 2011. SIRC recommended that Respondent's license be revoked unless
Respondent accepted a Consent Agreement to Surrender his license in lieu of
revocation.

1 **Prior Board History**

- 2 16. On October 15, 2010, Respondent was issued a Letter of Reprimand by the Board
3 in Case No. MD-10-0134A, the terms of which are incorporated herein by
4 reference.
5 17. On August 11, 2010, Respondent was issued an Advisory Letter by the Board in
6 Case No. MD-10-0003A, the terms of which are incorporated herein by reference.
7 18. On June 10, 2010, Respondent was issued an Interim Practice Restriction by the
8 Board in Case No. MD-10-0679A, the terms of which are incorporated herein by
9 reference.
10 19. On May 15, 2009, Respondent was issued an Advisory Letter with Non-
11 Disciplinary CME by the Board in Case MD-08-0746A, the terms of which are
12 incorporated herein by reference.
13 20. On December 14, 2007, Respondent was issued a Letter of Reprimand by the
14 Board in Case No. MD-06-0655A, the terms of which are incorporated herein by
15 reference.
16 21. On April 6, 2006, Respondent was issued an Advisory Letter by the Board in Case
17 No. MD-05-0252A, the terms of which are incorporated herein by reference.
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16 **CONCLUSIONS OF LAW**

- 17 1. The Board has jurisdiction over Respondent and the subject matter in this case.
18 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board has
19 the burden of proof in this matter. The standard of proof is by a preponderance of
20 the evidence. A.A.C. R2-19-119(A).
21 3. The conduct and circumstances described in the above Findings of Fact constitute
22 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(27) (e) and
23 (dd).
24 4. As a result of Respondent's unprofessional conduct in this matter and his prior
25 Board history, Respondent's license should be revoked pursuant to A.R.S. § 32-
1451(M).

1 5. Pursuant to A.R.S. § 32-1451(M), Respondent should be assessed the costs of
2 the formal hearing in this matter.

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4 **ORDER**

5 Respondent's License No. 27055 shall be revoked on the effective date of the
6 Order entered in this case.

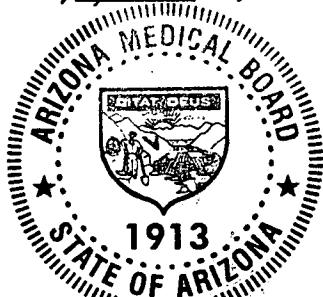
7 Respondent shall be assessed the costs of the formal hearing, pursuant to A.R.S.
8 § 32-1451(M). Payment of those costs shall be due no later than 60 days from the date of
9 invoicing by the Board, unless the Board or its designee amends that deadline date.

10 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

11 Respondent is hereby notified that he has the right to petition for a rehearing or
12 review. The petition for rehearing or review must be filed with the Board's Executive
13 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
14 petition for rehearing or review must set forth legally sufficient reasons for granting a
15 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days
16 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not
17 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
18 Respondent.

19 Respondent is further notified that the filing of a motion for rehearing or review is
20 required to preserve any rights of appeal to the Superior Court.

21 DATED this 14th day of December 2011.



THE ARIZONA MEDICAL BOARD

25 By [Signature]
LISA WYNN
Executive Director

ORIGINAL of the foregoing filed this
14th day of December, 2011 with:

1 Arizona Medical Board
9545 East Doubletree Ranch Road
2 Scottsdale, Arizona 85258

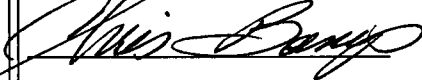
3 COPY OF THE FOREGOING FILED
this 12th day of December, 2011 with:

4
5 Cliff J. Vanell, Director
Office of Administrative Hearings
1400 W. Washington, Ste 101
6 Phoenix, AZ 85007

7 Executed copy of the foregoing
mailed by U.S. Mail this
8 12th day of December, 2011 to:

9 Angelo L. Chirban, M.D.
Address of Record

10 Anne Froedge
11 Assistant Attorney General
Office of the Attorney General
12 CIV/LES
1275 W. Washington
13 Phoenix, AZ 85007

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